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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SIX

RYDAN SHON,

Plaintiff and Appellant,

v.

MERCURY CASUALTY COMPANY,

Defendant and Respondent.

2d Civil No. B205014
(Super. Ct. No. 1244566)
(Santa Barbara County)

Plaintiff Rydan Shon appeals a judgment dismissing his tort/personal injury action against defendant Mercury Casualty Company (Mercury) following the sustaining of Mercury's demurrer to his first amended complaint without leave to amend. We conclude, among other things, that the trial court properly sustained the demurrer because Shon's complaint was ambiguous and did not state a cause of action against Mercury. We affirm.

FACTS

Shon was involved in an automobile accident with a car driven by Trent Beck. Shon believed that Beck was insured by Mercury. He obtained a Judicial Council complaint form for personal injury and property damage based on motor vehicle negligence. (Cause of Action-Motor Vehicle, Jud. Council form PLD-P1-001(1) [rev. Jan. 1, 2007].) He named Mercury as the sole defendant. On portions of the form that allow the plaintiff to state facts, he inserted some sentences in illegible handwriting. On

the first page of his complaint he wrote that Mercury "failed duty to claim YP005313-C3 May /08/2005 of Rydan Shon"

Mercury demurred to the complaint on the grounds that it was uncertain and that Shon had not stated a cause of action. Shon appeared in propria persona. The court sustained the demurrer. It found "the complaint was illegible and no legible facts disclosed a basis for either a duty by Mercury or its liability." The court gave Shon leave to amend.

Using the same Judicial Council form, Shon filed an amended complaint listing Mercury as the sole defendant. On the portion of the form that requires a statement of the reasons why a defendant is liable, Shon handwrote, "The law requires insurance for an auto accident. Mercury Insurance Group is [illegible] responeably [sic] named defendant, herein." The part of the form that requires the name of the defendant who drove the other vehicle is blank. Beck's name is not mentioned in the amended complaint.

Mercury demurred on the same grounds it set forth in its first demurrer. The court sustained the demurrer without leave to amend. It said Shon did not allege "that Mercury was the owner of the motor vehicle, or that Plaintiff was an insured of Mercury." "There are still no legible facts that disclose a basis for either a duty by Mercury or its liability. The only basis for liability appears to be that Mercury insured the driver of the vehicle involved in the accident with Plaintiff." The court informed Shon that his proper remedy was an action against Beck. Shon filed a separate action for negligence naming Beck as the sole defendant.

DISCUSSION

I. Sustaining the Demurrer

Shon contends the trial court erred by sustaining the demurrer to his complaint. We disagree. "On appeal from a judgment entered after the sustaining of a demurrer the order of the trial court . . . must be affirmed . . . if the demurrer is well taken as to any of the grounds stated therein." (*Bernstein v. Piller* (1950) 98 Cal.App.2d 441,

443.) Here Mercury demurred to Shon's complaints on two grounds: 1) uncertainty and 2) failure to state a cause of action.

Code of Civil Procedure section 430.10, subdivision (f) provides that a demurrer is properly sustained if "[t]he pleading is uncertain. As used in this subdivision, 'uncertain' includes ambiguous and unintelligible." "In pleading, the essential facts upon which a determination of the controversy depends should be stated with clearness and precision so that nothing is left to surmise." (*Bernstein v. Piller, supra*, 98 Cal.App.2d at p. 443.) A separate ground for a demurrer is that "[t]he pleading does not state facts sufficient to constitute a cause of action." (Code Civ. Proc., § 430.10, subd. (e).)

"The Judicial Council pleading forms have simplified the art of pleading, and have made the task of drafting much easier. Nevertheless, in some cases more is required than merely placing an 'X' in a box." (*People ex rel. Dept. of Transportation v. Superior Court* (1992) 5 Cal.App.4th 1480, 1484.) Pleadings are liberally construed. (*Id.* at p. 1485.) But "we must not so liberally construe the allegations of the complaint so as to deny the defendant adequate notice to defend the case." (*Ibid.*)

Here Shon's first complaint was largely illegible, ambiguous, and did not state facts showing a basis for liability against Mercury. Mercury was not given adequate notice of the reasons why it was being sued. (*People ex rel. Dept. of Transportation v. Superior Court, supra*, 5 Cal.App.4th at p. 1485.) The first demurrer was properly sustained.

The demurrer to Shon's amended complaint was also properly sustained. Shon did not state a cause of action against Mercury. He used a Judicial Council form for auto accident negligence. But the portion of the form that requires a statement about the defendant who drove the other car is blank. Shon did not allege that Beck was insured by Mercury. In fact, Beck's name is not even mentioned in this amended complaint. Shon did not state facts about what Mercury did or how it is liable. He did not allege that Mercury or any of its agents were involved in the accident, that they owned the other car or insured it. He did not claim that he had a contract with Mercury. His sole statement

about Mercury's alleged liability was "[t]he law requires insurance for an auto accident. Mercury Insurance Group is [illegible] responeably [*sic*] named defendant, herein."

On appeal, Shon is apparently contending that he stated a cause of action against Mercury because Beck injured him and Mercury insured Beck. But these facts were not stated in his amended complaint. Moreover, the trial court correctly informed Shon that his proper remedy was an action against Beck. Shon had no cause of action against Mercury simply because it insured Beck. (*Moradi-Shalal v. Fireman's Fund Ins. Companies* (1988) 46 Cal.3d 287, 304.) He has failed to show that the trial court erred.

The judgment is affirmed. Costs on appeal are awarded in favor of Mercury.

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GILBERT, P.J.

We concur:

YEGAN, J.

COFFEE, J.

Denise de Bellefeuille, Judge
Superior Court County of Santa Barbara

Rydan Shon, in pro. per., for Plaintiff and Appellant.

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